

Senate, No. 2557

[Senate, July 20, 2010 - Substituted by amendment by the Senate (Ways and Means) for Senate, No. 1712.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT FURTHER REGULATING DEBT COLLECTION.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 **SECTION 1.** Section 16 of chapter 224 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by inserting after the first sentence the following sentence:-
3 In the case of a debtor who is either a handicapped person or a person 60 years of age or older
4 where the court finds that the debtor has no property or income not exempt from being taken on
5 execution, the proceedings shall be dismissed without prejudice.

6 **SECTION 2:** Said section 16 of said chapter 224, as so appearing, is hereby further
7 amended by inserting after the word "chapter", in line 35, the following words:- ; provided,
8 however, that in the case of a debtor who is either a handicapped person or a person 60 years of
9 age or older and an order was issued under this chapter and the debtor is later determined to have
10 only non-exempt property or income, the court shall suspend the order and dismiss the

proceedings without prejudice.

SECTION 3: Said section 16 of said chapter 224, as so appearing, is hereby further amended by adding the following paragraph:-

For the purpose of this section, “handicapped person” shall mean a person who: (i) has a physical or mental impairment which substantially limits 1 or more major life activities; or (ii) is regarded as having such impairment as evidenced by the receipt of state or federal disability benefits.

SECTION 4. Chapter 235 of the General Laws is hereby amended by striking out section 34, as so appearing, and inserting in place thereof the following section:-

Section 34. The following property of the debtor shall be exempt from seizure on execution:

First, the necessary wearing apparel, beds and bedding for the debtor and the debtor’s family, 1 heating unit used for warming the dwelling house, 1 stove, 1 refrigerator, 1 freezer and 1 hot water heater used primarily for the personal, family or household use of the debtor or a debtor’s family and the amount each month, not exceeding \$500, reasonably necessary to pay for fuel, heat, refrigeration, water, hot water and light for the debtor and the debtor’s family;

Second, other household furniture necessary for the debtor and the debtor’s family, not exceeding \$15,000 in value;

Third, the bibles, schoolbooks and library used by the debtor or the debtor’s family, not exceeding \$500 in value;

31 Fourth, 2 cows, 12 sheep, 2 swine and 4 tons of hay;

32 Fifth, tools, implements and fixtures necessary for carrying on the trade or business of the
33 debtor, not exceeding \$5,000 in value;

34 Sixth, materials and stock designed and procured by the debtor which is necessary for
35 carrying on the trade or business of the debtor and intended to be used or wrought therein, not
36 exceeding \$5,000 in value;

37 Seventh, provisions necessary and procured and intended for the use of the debtor's
38 family or the money necessary therefor, not exceeding \$600 in value;

39 Eighth, 1 pew occupied by the debtor or the debtor's family in a house of public worship;
40 provided, however, that nothing herein shall prevent the sale of a pew for the nonpayment of a
41 tax legally imposed thereon;

42 Ninth, boats, fishing tackle and nets of a debtor who is a fisherman and actually used by
43 the debtor in the course of the debtor's business, not exceeding \$1,500 in value;

44 Tenth, the uniform of an officer or soldier in the militia and the arms and accoutrements
45 required by law to be kept by the officer or soldier;

46 Eleventh, the rights of burial and tombs in use as repositories for the dead;

47 Twelfth, 1 sewing machine in actual use by each debtor or by his family, not exceeding
48 \$300 each in resale value, and 1 computer and 1 television, in actual use by each debtor's family;

Thirteenth, shares in co-operative associations subject to chapter 157, not exceeding \$100 in value in the aggregate;

Fourteenth, estates of homestead as defined in chapter 188 or, in lieu thereof, the amount of money each rental period, not exceeding \$2,500 per month, necessary to pay the rent for the dwelling unit occupied by the debtor and the debtor's family;

Fifteenth, \$2,500 in cash or savings or other deposits in a banking or investment institution, wages equal to the greater of 85 per cent of the debtor's gross wages or 50 times the greater of the federal or the Massachusetts hourly minimum wage for each week or portion thereof and the full amount owing or paid to a person as public assistance;

Sixteenth, an automobile necessary for the debtor's personal transportation or to secure or maintain employment, not exceeding \$7,500 of wholesale resale value; provided, however, that the equitable value of a vehicle owned or substantially used by debtor who is either a handicapped person or a person 60 years of age or older shall be exempt up to \$15,000 in wholesale resale value;

Seventeenth, the debtor's aggregate interest in any personal property, not to exceed \$1,000 in value, plus up to \$5,000 of any unused dollar amount of the aggregate exemptions provided under clauses Second, Fifth and Sixteenth; and

Eighteenth, the debtor's aggregate interest, not to exceed \$1,225 in value, in jewelry held primarily for the personal, family or household use of the debtor or the debtor's spouse or dependent;

SECTION 5. Section 28 of chapter 246 of the General Laws, as so appearing, is hereby

70 amended by striking out, in line 2, the figure “\$125” and inserting in place thereof the following
71 words:- the greater of 85 per cent of the debtor’s gross wages or 50 times the greater of the
72 federal or the Massachusetts hourly minimum wage for each week or portion thereof.

73 **SECTION 6.** Said chapter 246 is hereby further amended by striking out section 28A, as
74 so appearing, and inserting in place thereof the following section:-

75 Section 28A. Twenty-five hundred dollars of any natural person in an account in a trust
76 company, savings bank, cooperative bank, credit union, national banking association or other
77 banking institution doing business in the commonwealth shall be exempt from attachment by
78 trustee process. A trustee summons served on any such institution shall describe the exemption
79 with reference to this section. Upon service of a trustee summons, the trustee shall answer as
80 subject to attachment only such much money of the defendant that exceeds \$2,500.

81 No business, trust or organization shall be entitled to the exemption in this section and no
82 natural person shall be entitled to more than a \$2,500 exemption at any one time. In any action,
83 the plaintiff may apply to the court for further attachments upon proof by certified records of a
84 trustee that the defendant has received an exemption not authorized under this section or that the
85 \$2,500 exemption of the defendant has been in whole or in part exhausted or exceeded.